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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,895	07/24/2001	GERALD ANTON OFNER	046-7001.30	3043

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EXAMINER

FINEMAN, LEE A

ART UNIT PAPER NUMBER

2872

DATE MAILED: 10/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/889,895

Applicant(s)

OFNER, GERALD ANTON

Examiner

Lee Fineman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 July 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-61 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |                                                                                              |                                                                             |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Species I: Vision aid with optical elements in specific path of movement – claims 2-5

Species II: Vision aid with optical elements as lenses – claim 6

Species III: Vision aid with optical elements as prisms – claim 7

Species IV: Vision aid with optical elements in specific location – claim 12

Species V: Vision aid with optical elements changed at constant distance – claim 32

Species VI: Vision aid with interchangeable optical elements – claim 35

Species VII: Vision aid with two tubes: claims 8, 11

Species VIII: Vision aid with common tube: claims 9-11, 52

Species IX: Vision aid with an illumination means – claims 28-31, 33-34

Species X: Vision aid with laser beam – claims 39-40

Species XI: Vision aid with information inserted into system – claims 13-20, 22-26, 60-61

Species XII: Vision aid with sensors and measuring instruments – claims 21, 23, 49

Species XIII: Vision aid with voice dependent control – claim 27

Species XIV: Vision aid with means for acquiring pupil – claim 36

Species XV: Vision aid with holding device – claims 50-51

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Species XVI: Vision aid with infrared system – claims 53-59

Species XVII: Vision aid with filters – claims 37-38, 54-55

Species XVIII: Vision aid with headset – claims 41-43, 46-49

Species XIX: Vision aid with stabilization – claims 44-45

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP §809.02(a).

2. The claims are deemed to correspond to the species listed above in the following manner:

Species I: Vision aid with optical elements in specific path of movement – claims 2-5

Species II: Vision aid with optical elements as lenses – claim 6

Species III: Vision aid with optical elements as prisms – claim 7

Species IV: Vision aid with optical elements in specific location – claim 12

Species V: Vision aid with optical elements changed at constant distance – claim 32

Species VI: Vision aid with interchangeable optical elements – claim 35

Species VII: Vision aid with two tubes: claims 8, 11

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Species VIII: Vision aid with common tube: claims 9-11, 52

Species IX: Vision aid with an illumination means – claims 28-31, 33-34

Species X: Vision aid with laser beam – claims 39-40

Species XI: Vision aid with information inserted into system – claims 13-20, 22-26, 60-61

Species XII: Vision aid with sensors and measuring instruments – claims 21, 23, 49

Species XIII: Vision aid with voice dependent control – claim 27

Species XIV: Vision aid with means for acquiring pupil – claim 36

Species XV: Vision aid with holding device – claims 50-51

Species XVI: Vision aid with infrared system – claims 53-59

Species XVII: Vision aid with filters – claims 37-38, 54-55

Species XVIII: Vision aid with headset – claims 41-43, 46-49

Species XIX: Vision aid with stabilization – claims 44-45

The following claim(s) are generic: 1. Haaksman, U.S. Patent No. 5,374,820 anticipates the generic claim.

3. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

Species I: Vision aid with optical elements in specific path of movement – claims 2-5

Species II: Vision aid with optical elements as lenses – claim 6

Species III: Vision aid with optical elements as prisms – claim 7

Species IV: Vision aid with optical elements in specific location – claim 12

Species V: Vision aid with optical elements changed at constant distance – claim 32

Species VI: Vision aid with interchangeable optical elements – claim 35

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Species VII: Vision aid with two tubes: claims 8, 11

Species VIII: Vision aid with common tube: claims 9-11, 52

Species IX: Vision aid with an illumination means – claims 28-31, 33-34

Species X: Vision aid with laser beam – claims 39-40

Species XI: Vision aid with information inserted into system – claims 13-20, 22-26, 60-61

Species XII: Vision aid with sensors and measuring instruments – claims 21, 23, 49

Species XIII: Vision aid with voice dependent control – claim 27

Species XIV: Vision aid with means for acquiring pupil – claim 36

Species XV: Vision aid with holding device – claims 50-51

Species XVI: Vision aid with infrared system – claims 53-59

Species XVII: Vision aid with filters – claims 37-38, 54-55

Species XVIII: Vision aid with headset – claims 41-43, 46-49

Species XIX: Vision aid with stabilization – claims 44-45

4. A telephone call was not made to applicant's representative to request an oral election to the above restriction requirement because of the complexity of the restriction requirement.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (703) 305-5414. The examiner can normally be reached on Monday - Friday 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cassandra Spyrou can be reached on (703) 308-1687. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4900.

  
LAF

October 17, 2002



**Cassandra Spyrou**  
Supervisory Patent Examiner  
Technology Center 2800